

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED SPECIALTY  
INSURANCE COMPANY,

Plaintiff,

v.

ONEBEACON INSURANCE  
GROUP,

Defendant.

CASE NO. C18-1846JLR

ORDER TO SHOW CAUSE

There are two motions currently pending before the court: (1) Third Party Defendant Bush Roed & Hitchings, Inc.'s ("BRH") motion to dismiss and compel arbitration (Mot. to Dismiss (Dkt. # 32)); and (2) BRH's unopposed motion to amend case deadlines (Mot. to Amend (Dkt. # 37)). The court held a telephonic status conference in this matter on September 9, 2019 for purposes of setting a trial date in this matter. (*See* 9/9/20 Min. Entry (Dkt. # 24).) During that conference, Defendant OneBeacon Insurance Group informed the court that it was unprepared for trial and that it

1 intended to seek leave to add BRH as a third party defendant in this matter—17 months  
2 after the deadline to join parties had expired.<sup>1</sup> (*See* 3/27/19 Sched. Order (Dkt. # 15).)  
3 OneBeacon assured the court that the addition of BRH would facilitate prompt resolution  
4 of this case. Accordingly, the court advised OneBeacon that it would grant leave to add  
5 BRH as a third party defendant, but it informed the parties that it would set this matter for  
6 trial in January 2021 and would not consider additional requests to amend the case  
7 schedule.

8 OneBeacon's assurances regarding the impact of BRH's addition to this case  
9 proved hollow. Roughly six weeks after OneBeacon filed its third party complaint  
10 against BRH, BRH moved to dismiss OneBeacon's claims and compel arbitration. (*See*  
11 *generally* Mot. to Dismiss.) Two weeks later, BRH filed an unopposed motion to amend  
12 the case schedule and asked the court to set an entirely new case schedule for this case so  
13 that BRH can adequately prepare this case for trial. (*See* Mot. to Amend at 1-4.)

14 The court remains unwilling to amend the case schedule for United Specialty's  
15 original claims against OneBeacon and OneBeacon's counterclaim against United  
16 Specialty. However, the court is sympathetic to the position that BRH finds itself in as a  
17 result of OneBeacon's lack of diligence in moving to add BRH as a third party defendant.

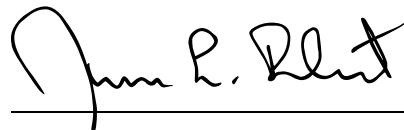
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19 <sup>1</sup> The third party complaint names Homeland Insurance Company of New York as the  
20 third party plaintiff and alleges that OneBeacon Insurance Group was "erroneously named" as  
21 the defendant. (*See* 3d. Pty. Compl. (Dkt. # 29) at 1.) If Plaintiff United Specialty Insurance  
22 Company ("United Specialty") agrees that Homeland Insurance Company of New York is the  
proper defendant for this action, the court encourages the parties to stipulate to substitute  
Homeland Insurance Company of New York for OneBeacon Insurance Group as the defendant  
for the sake of clarity. For purposes of this order, the court refers to Homeland Insurance  
Company of New York and OneBeacon Insurance Group collectively as "OneBeacon."

1 Accordingly, the court ORDERS the parties to show cause whether the court should sever  
2 OneBeacon's claims against BRH from this case under Federal Rule of Civil Procedure  
3 21 or order a separate trial on OneBeacon's claims against BRH under Federal Rule of  
4 Civil Procedure 42. *See* Fed. R. Civ. P. 21 ("The court may . . . sever any claim against a  
5 party."); Fed. R. Civ. P. 42(b) ("For convenience, to avoid prejudice, or to expedite and  
6 economize, the court may order a separate trial of one or more separate issues, claims,  
7 crossclaims, counterclaims, or third-party claims."). The parties shall file their responses  
8 to this order to show cause by 10:00 a.m. on Monday, November 30, 2020. The  
9 responses shall not exceed five pages in length, and there shall be no replies unless the  
10 court orders otherwise.

11 The court DEFERS ruling on BRH's motion to amend the case schedule until it  
12 receives the parties' responses to this order to show cause. Accordingly, the court  
13 DIRECTS the clerk to re-note BRH's motion to amend (Dkt. # 37) for November 30,  
14 2020.<sup>2</sup>

15 Dated this 23rd day of November, 2020.

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18 JAMES L. ROBART  
19 United States District Judge  
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22 <sup>2</sup> The court is aware that BRH's motion to dismiss and compel arbitration is noted for  
December 4, 2020. (*See* Mot. to Dismiss at 1.) This order to show cause does not impact the  
parties' briefing obligations on that motion.